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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John S. FOX) Confirmation No.: 6809

Serial No.: 10/788,724) Group Art Unit: 2883

Filed: August 18, 2000) Examiner: Peng. C. U.

For: ILLUMINATING AND PANORAMICALLY VIEWING A
MACROSCOPICALLY-SIZED SPECIMEN ALONG A SINGLE VIEWING AXIS AT A
SIMGLE TIME

Atty's Docket No.: FOX 0002P)

San Diego, California
November 22, 2005

RESPONSE TO REQUIREMENT FOR RESTRICTION

Box Amendment (No Fee)

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Timely in response to Office Action making a requirement for restriction under 35 U.S.C. section 121, Applicant makes the following election in the above-identified patent application:

The examiner has made requirement for restriction under 35 U.S.C. section 121 between five species, with no claim generic to all species but claims 1, 11, 18 and 21 generic to species A-D.

Applicant elects species A, claims 1, 2, 11, 18, 19 and 21, with traverse as regards species A, D and E, only.

In other words, should no generic claim be found allowable Applicant does not contest that his elected species A is patentably distinct from the species B and C. Namely, Applicant claims in species C a feedback sensor system (control circuits); and in species B a dichroic mirror. Each is a part of Applicant's invention, not mandating the parts of species A, D, and E.

and E

However, should no generic claim be found allowable Applicant respectfully traverses that his elected species A should be found patentably distinct from the species D and E.

These species - defined by physical parts - can only function as subsystem within the overall system of the invention, and are not patentably distinct therefrom. These species and subsystems -- required for operation of the invention -- are FUNCTIONALLY

Species A providing wavelength control, found by the Examiner to be expressed in Applicant's claimed bandpass filters.

Species D providing even illumination found by the Examiner to be expressed in Applicant's claimed fiber optics.

Species E providing light intensity control found by the Examiner to be expressed in Applicant's claimed natural density filters and aperture.

Applicant's invention will not work correctly without wavelength control, even illumination, and light intensity control. Applicant finds that his elected species A, and also species D and E, should be examined together, as all three species A, D and E collectively define Applicant's invention, without each of which Applicant might have only a

- (1) a lighting system, or
- (2) a wavelength selection system, or
- (3) even a simple illumination system.

Instead, Applicant presents, and claims in the claims associated with all species A, D and E a unique system that combines all three functions described above to permit the system user to do research that they can not carry out with any other system.

Applicant petitions that claims 1, 2, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 21, 23 and 27 should be examined in common.

3. Summary

The present amendment and remarks has responded to the requirement for restriction (with traverse), and an election has been made.

In consideration of the election, the present application is deemed in condition for substantive examination. The timely action of the Examiner to that end is earnestly solicited.

Applicant's undersigned attorney is at the Examiner's disposal should the Examiner wish to discuss any matter which might expedite prosecution of this case.

Sincerely yours,

William C. Fuess

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Registration Number 30,054

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[X] Attorney of Record
[] Filed Under 37 CFR §1.34(a)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box AMENDMENT No Fee, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date written below.

November 22, 2005 William C. Fuess

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